

EXHIBIT E

FILED
San Francisco County Superior Court



DEC 31 2018

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BY: [Signature]
Deputy Clerk

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ON BEHALF OF SUBROGATION PLAINTIFFS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

Coordination Proceeding
Special Title (Rule 3.550)

CALIFORNIA NORTH BAY FIRE CASES

JCCP No. 4955

**[PROPOSED] CASE MANAGEMENT
ORDER 5: COLLECTION AND
PRODUCTION OF CASE
MANAGEMENT ORDER COMPLIANCE
INFORMATION AND SUBROGATION
FILES**

Assigned for All Purposes to:
Hon. Curtis E.A. Karnow, Dept. 304

This Case Management Order establishes the obligations of the Parties and their vendor, BrownGreer, PLC, to collect and organize case-specific information in a central repository in order to facilitate and track compliance with previously established Case Management Orders in this JCCP.

1 **I. PROCEDURE FOR IMPROVING THE TRACKING OF COMPLIANCE WITH**
2 **CASE FILING REQUIREMENTS**

3 **A. Application to All Cases and Counsel**

4 These provisions apply to any Individual Plaintiff whose case has been transferred to JCCP
5 4955 as of the entry of this Order, and to any Individual Plaintiff whose case is transferred to
6 JCCP 4955 after entry of this Order.

7 **B. CMO 1 Requirements: Notice of Adoption/Short Form Complaint**

8 In order to track compliance with Case Management Orders, including CMO 1, the
9 Individual Plaintiffs retained BrownGreer PLC ("BrownGreer") to manage and control all of the
10 case-specific data relating to JCCP 4995. Under the supervision of Individual Plaintiffs' Lead and
11 Liaison counsel, BrownGreer has reviewed and uploaded all of the Notices of Adoption and Short
12 Form Complaints into a database, referred to hereinafter as the BrownGreer Portal.

13 In the interests of maintaining an orderly and complete list of Plaintiffs who have adopted
14 the Master Complaint for the benefit of the Court, BrownGreer shall provide a Notice of Adoption
15 Report to the Court on a regular basis, or upon request from the Court. This report will include the
16 name of each plaintiff who has adopted the Master Complaint by virtue of serving an NOA or by
17 filing an SFC, as well as: the name of the primary law firm representing the plaintiff; the fire or
18 fires alleged to have caused injuries to the plaintiff or plaintiff household; the docket case number;
19 and the NOA/SFC case number, hereinafter "Household Number".¹ The provision of these Notice
20 of Adoption Reports will not obviate, limit, or otherwise affect plaintiffs' pleading obligations
21 under CMO 1.

22 To assist lead counsel in tracking information pertaining to compliance with case filing
23 requirements, going forward, any individual plaintiff who seeks to initiate litigation may do so
24 initially through the BrownGreer Portal, which provides the means to submit basic individual
25 plaintiff information as well as an interactive form for the preparation of an NOA or an SFC. The
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27 ¹ Household Number will be used synonymously with the Notice of Adoption Complaint Number.
28 This unique identifier will be used to capture the claims of all plaintiffs who file together under
one NOA/SFC per CMO 1, including individuals, as well as business entities.

1 BrownGreer Portal will also assign the Individual Plaintiff(s) with a Household Number, which
2 shall be used on the SFC and NOA of the Master Complaint.

3 **C. Amended Service Requirements for NOAs/SFCs**

4 The service requirements contained in CMO 1, which apply to service of SFCs and NOAs
5 are hereby amended to include the following. Each Direct Action Plaintiff who files and/or effects
6 service of an SFC and/or NOA after entry of this Order shall concomitantly serve the SFC and/or
7 NOA on BrownGreer by email to NBF_Service@browngreer.com.

8 **II. CASE MANAGEMENT ORDER TWO: LIABILITY DISCOVERY FROM**
9 **INDIVIDUAL PLAINTIFFS**

10 Each individual plaintiff whose case is coordinated in JCCP 4995 and who has not
11 provided CMO 2 responses to Plaintiffs' Liaison before entry of this Order shall complete and
12 upload to the BrownGreer Portal the CMO 2 Questionnaire within 30 days of either the entry of
13 this Order, or within 30 days of the entry of the order granting coordination of their case,
14 whichever is later in time. BrownGreer shall present to the Defendants and to Individual Plaintiffs'
15 leadership the responsive information in a CMO 2 report every sixty (60) days. The next CMO 2
16 report shall be due on January 14, 2019.

17 **III. DAMAGES INFORMATION FROM SUBROGATION PLAINTIFFS**

18 **A. Retained Individual Plaintiffs—Insurance Information Sharing**

19 Each Counsel or Law Firm with a case coordinated in JCCP 4955 shall submit within 10
20 days of the entry of CMO 5 a List of Individual Plaintiffs, whether filed or unfiled, who have
21 retained Counsel or Law Firm in conjunction with claims arising out of a fire that is subject to
22 JCCP 4955. This List shall include:

- 23 • The first name and last name of all adult members of each household (household
24 defined as a group of Individual Plaintiffs suffering a loss associated with the same
25 address);²
26 • The address of the loss location (street addresses only; P.O. Boxes and Parcel
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28 ² To include business entity Direct Plaintiffs, where applicable.

1 Numbers are not acceptable);³ and

- 2 • The name of all known insurance carriers providing property insurance coverage to
3 the household members.

4 Subrogation Plaintiffs shall provide a copy of the Complete List of Individual Plaintiffs to
5 BrownGreer for import and matching to the existing BrownGreer Individual Plaintiff Database.

6 **B. Individual Plaintiffs Retained After Entry of CMO 5 – Insurance Information**
7 **Sharing**

8 For cases retained after entry of CMO 5, each Counsel or Law Firm with a case
9 coordinated in JCCP 4955 shall submit an updated complete List of Individual Plaintiffs, whether
10 filed or unfilled, who have retained Counsel or Law Firm in conjunction with claims arising out of
11 a fire that is subject to JCCP 4955 every sixty (60) days to BrownGreer. The List shall include:

- 12 • The first name and last name of all adult members of each household (household
13 defined as a group of Individual Plaintiffs suffering a loss associated with the same
14 address);
15 • The address of the loss location (street addresses only; P.O. Boxes and Parcel
16 Numbers are not acceptable); and
17 • The name of all known insurance carriers providing property insurance coverage to
18 the household members.

17 **C. Subrogation Claim File Production Master Control Spreadsheet**
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19 Subrogation Plaintiffs shall independently conduct a “matching” project between the List
20 of Individual Plaintiffs and the Subrogation List of Claims to identify all property insurance
21 claims related to each of the Individual Plaintiff households. Wherever a match is identified,
22 Subrogation Plaintiffs will endeavor to link the List of Individual Plaintiffs with the Subrogation
23 claim information for each household, and with the unique Individual Plaintiff Control Number
24 and/or the Household Number assigned by BrownGreer.

25 Subrogation Plaintiffs shall create an initial matching spreadsheet called “Claim File
26 Production Master Control” (“CFMC”). The CFMC shall combine and link information from the
27

28 ³ Where a property has no street address, Counsel or Law Firm shall provide the best available
identifying information for that property.

1 List of Individual Plaintiffs, the Subrogation List of Claims and the BrownGreer Individual
2 Plaintiff Database as follows:

- 3 • Client information submitted by the Individual Plaintiff firms (client/household
4 member names, loss address, carriers);
- 5 • The corresponding BrownGreer Individual Plaintiff Control Number and/or
6 Household Number; and
- 7 • Insurance claim information matched to the Individual Plaintiff/Household,
8 including Name of Insured, Carrier Name, Claim Number, Date of Loss (as
9 reported to carrier), Loss Location Address, amount paid, open reserves (if any),
10 and the status of adjustment of the claim by the carrier.

11 Upon completion, the initial CFMC will be provided to BrownGreer for import into a
12 central data management system. The BrownGreer Portal will then become the central repository
13 for management of all Individual Plaintiff data, including any insurance claim data provided by
14 the Subrogation Plaintiffs. BrownGreer will provide the Subrogation Plaintiffs with access to the
15 BrownGreer Portal to facilitate ongoing matching between Individual Plaintiff and Subrogation
16 data.

- 17 • Subrogation Plaintiffs will update the paid and open reserves as well as claims
18 status for all claims matched to Individual Plaintiffs in the BrownGreer Portal
19 regularly, and no less frequently than every four (4) months.
- 20 • Upon completion of the initial matching process outlined above, Subrogation
21 Plaintiffs will update the carrier data reported to the BrownGreer Portal to provide
22 a breakdown of payments by coverage, to include payments under Building,
23 Contents/Business Personal Property, Alternative Living Expenses/Business
24 Interruption and Auto/Specialty. Once a coverage breakdown has been added to the
25 BrownGreer Portal, all updates going forward will include a breakdown by
26 coverage.

27 **D. Individual Plaintiff Insurance Claim File Production**

28 The Subrogation Plaintiffs will produce claim files to BrownGreer as follows:

- 29 • For any claim that has been matched to an Individual Plaintiff Household, the
30 Subrogating Plaintiff will produce the closed claim file to BrownGreer once the
31 claim has been closed for adjustment; and
- 32 • BrownGreer will upload the claim file to the BrownGreer Portal and alert counsel,
33 or the individual plaintiff (if pro se), by way of email notification, that counsel or
34 pro se plaintiff has twenty-one (21) days to review the insurance claim file and
35 object to its production and/or redact information from the production. As soon as
36 representing counsel or the pro se plaintiff marks the claim file as "review
37 complete", the claim file will be made available to the Defendants through the
38 BrownGreer Portal. Plaintiff shall upload into the BrownGreer Portal the approved

1 version of the claim file for production to the Defendants. However, if no review is
2 performed or objection made within twenty-one (21) days of email notification,
3 then the insurance claim file will automatically be made available to the Defendants
4 through the BrownGreer Portal as provided by Subrogating Plaintiff.

5 **E. Access to the BrownGreer Portal**

6 Each Individual Plaintiff, Subrogation Plaintiff, and Defendant shall establish a secure
7 connection with the BrownGreer Portal by obtaining authorized user names and secure login
8 passwords to permit use of BrownGreer Portal by counsel.

9 Each Plaintiff shall continue to use the BrownGreer Portal to request, obtain, complete, or
10 upload any required data, and serve the appropriate CMO 1 and 2 compliance information online
11 (including uploading PDFs or other electronic images, photographs and videos of any records
12 required). Liaison Counsel for Individual Plaintiffs shall continue to work with BrownGreer to
13 ensure CMO compliance and will continue to view, search and download non-confidential
14 materials submitted to the BrownGreer Portal. Finally, the Court may establish a secure
15 connection with the BrownGreer Portal by obtaining an authorized user name and secure login
16 password to permit use of the BrownGreer Portal by the Court.

17 Except as set forth herein, Counsel for plaintiffs and each *pro se* plaintiff shall be
18 permitted to view, search and download on the BrownGreer Portal those materials submitted by
19 that Plaintiff and by Defendants relating to that Plaintiff. Plaintiffs' Co-Liaison Counsels shall
20 maintain administrative access co-equal with BrownGreer to manage data and to facilitate
21 communications consistent with the purposes of this order.

22 **F. CMO 1: NOA – Plaintiff-Specific Information.**

23 Each individual plaintiff shall be required to confirm the actual damage categories that
24 apply to that plaintiff's specific case. This confirmation is herein referred to as the "CMO
25 Compliance Information" and shall be submitted by each Individual Plaintiff to the BrownGreer
26 Portal. The parties have agreed to use the BrownGreer Portal to hold such information.

27 Each individual plaintiff whose case has been coordinated in JCCP 4955 before the entry
28 of CMO 5 shall submit the CMO Compliance Information to the BrownGreer Portal within 30
days of the entry of CMO 5. Each individual plaintiff whose case is coordinated in JCCP 4955

1 after entry of CMO 5 shall have 30 days from the entry of the order granting coordination of that
2 plaintiff's case in which to submit the CMO Compliance Information to the BrownGreer Portal.

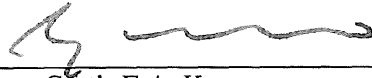
3 Service of completed CMO Compliance Information shall be deemed to occur when the
4 submitting party has performed each of the steps required by the BrownGreer Portal to execute the
5 online submission of the materials, and the submitting party has received confirmation on screen
6 that the materials have been successfully submitted.

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9 **IT IS SO ORDERED.**

10 Dated: 12/28/2018



Hon. Curtis E.A. Karnow
Judge of the Superior Court

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